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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,854	06/18/2001	Gilad Odinak	WING-1-1016	1886

25315 7590 01/15/2008
BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

EXAMINER

GARG, YOGESH C

ART UNIT	PAPER NUMBER
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3625

MAIL DATE	DELIVERY MODE
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01/15/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Interview Summary	Application No.	Applicant(s)	
	09/884,854	ODINAK ET AL.	
	Examiner	Art Unit	
	Yogesh C. Garg	3625	

All participants (applicant, applicant's representative, PTO personnel):

(1) Yogesh C. Garg. (3) _____

(2) Scott Born. (4) _____

Date of Interview: 03 January 2008.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.

If Yes, brief description: _____

Claim(s) discussed: 1.

Identification of prior art discussed: _____


Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


 Examiner's signature, if required

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Examiner informed Mr. Born that he has already reviewed his remarks received on 10/31/2007 and they were not persuasive for following reasons: The new limitation added to claim 1, "wherein the recording of the request is not required to receive the broadcast" does not find support in the applicant's originally filed specification and/or originally filed claims.

The applicant argues that in Jackson reference the recording of a request is a pre-condition of receiving the song and as such the combination of Jackson and Crosby is non-functional and therefore it is not obvious to combine the prior art teachings of Crosby and Jackson to arrive at the applicant's recited claim 1. The examiner respectfully disagrees because keeping in line with KSR case (KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 82 USPQ2d 1385 (2007)), all the claimed elements were known in the prior arts of Crosby and Jackson and one skilled in the art could have combined the features as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of an ordinary skilled in the art at the time of the invention. Also, KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 82 USPQ2d 1385 (2007), forecloses the requirement of requirement of a motivation to combine the teachings of prior arts. Mr. Born indicated that he would further respond on receiving the Office action to be mailed in due course based on the above examiner's findings..

PTOL-413A (10-07)
Approved for use through 10/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Applicant Initiated Interview Request Form

Application No.: 09/884,854 First Named Applicant: Gilad Odinak
Examiner: Garg, Yogesh C. Art Unit: 3625 Status of Application: _____

Tentative Participants:

(1) P. G. Scott Born (2) Yogesh Garg
(3) _____ (4) _____

Proposed Date of Interview: 3 January 2008 Proposed Time: 2 pm ET (AM/PM)

Type of Interview Requested:

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO

If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>Rejection</u>	<u>1-7, et al.</u>	<u>Crosby/Jackson</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) <u>Rejection</u>	<u>8, 24, et al.</u>	<u>Crosby/Jackson/Treyz</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Continuation Sheet Attached

Brief Description of Arguments to be Presented:

Combining the Jackson and Crosby references would render the systems disclosed by each said reference non-functional. Accordingly, this combination is not a proper basis for 103 rejection. Treyz fails to supply missing teachings.

An interview was conducted on the above-identified application on 1/3/08.

NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

P. G. Scott Born
Applicant/Applicant's Representative Signature

P. G. Scott Born

Typed/Printed Name of Applicant or Representative

40,523

Registration Number, if applicable

G. H. Garg
Examiner/SPE Signature

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2